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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/754,477	01/04/2001	Brad A. Armstrong		3561

7590 06/02/2005

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EXAMINER

NGUYEN, KEVIN M

ART UNIT	PAPER NUMBER
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2674

DATE MAILED: 06/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/754,477	Applicant(s) ARMSTRONG, BRAD A.	
	Examiner Kevin M. Nguyen	Art Unit 2674	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>06/30/2004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Request for Continued Examination

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 4/18/2005 has been entered. An action on the RCE follows:

Priority

2. An application in which the benefits of an earlier application are desired must contain a specific reference to the prior application(s) in the first sentence(s) of the specification or in an application data sheet by identifying the prior application by application number (37 CFR 1.78(a)(2) and (a)(5)). If the prior application is a non-provisional application, the specific reference must also include the relationship (i.e., continuation, divisional, or continuation-in-part) between the applications except when the reference is to a prior application of a CPA assigned the same application number.

3. This application filed under former 37 CFR 1.62 lacks the necessary reference to the prior application. A statement reading, "This is a continuation of Application No. 09/167,314, filed 10/06/1998." should be entered following the title of the invention or as the first sentence of the specification. Also, the current status of the parent nonprovisional application(s) should be included.

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4. If applicant desires benefit of a previously filed application under 35 U.S.C. 120, specific reference to the earlier filed application must be made in the instant application. For benefit claims under 35 U.S.C. 120, 121 or 365(c), the reference must include the relationship (i.e., continuation, divisional, or continuation-in-part) of the applications. This should appear as the first sentence(s) of the specification following the title, preferably as a separate paragraph unless it appears in an application data sheet. The status of nonprovisional parent application(s) (whether patented or abandoned) should also be included. If a parent application has become a patent, the expression "now Patent No. _____" should follow the filing date of the parent application. If a parent application has become abandoned, the expression "now abandoned" should follow the filing date of the parent application.

If the application is a utility or plant application filed under 35 U.S.C. 111(a) on or after November 29, 2000, the specific reference must be submitted during the pendency of the application and within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior application. If the application is a utility or plant application which entered the national stage from an international application filed on or after November 29, 2000, after compliance with 35 U.S.C. 371, the specific reference must be submitted during the pendency of the application and within the later of four months from the date on which the national stage commenced under 35 U.S.C. 371(b) or (f) or sixteen months from the filing date of the prior application. See 37 CFR 1.78(a)(2)(ii) and (a)(5)(ii). This time period is not extendable and a failure to submit the reference required by 35 U.S.C. 119(e) and/or

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120, where applicable, within this time period is considered a waiver of any benefit of such prior application(s) under 35 U.S.C. 119(e), 120, 121 and 365(c). A benefit claim filed after the required time period may be accepted if it is accompanied by a grantable petition to accept an unintentionally delayed benefit claim under 35 U.S.C. 119(e), 120, 121 and 365(c). The petition must be accompanied by (1) the reference required by 35 U.S.C. 120 or 119(e) and 37 CFR 1.78(a)(2) or (a)(5) to the prior application (unless previously submitted), (2) a surcharge under 37 CFR 1.17(t), and (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2) or (a)(5) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional. The petition should be addressed to: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

Information Disclosure Statement

5. The information disclosure statement filed 06/30/2004 which has been placed in the application file, the information referred to therein has been considered as to the merits.

6. This office action is made in response to applicant's argument filed on 4/18/2005. Claims 1-7 and 11 are allowed, claims 8-10 and 12-31 are maintained rejection, and claims 1-31 are currently pending in the application. An action follows below:

Allowable Subject Matter

7. The indicated allowability of claims 1-7 and 11 are withdrawn in view of the newly discovered reference(s) to Falcon (US 5,633,657). Rejections based on the newly cited reference(s) follow.

Response to Arguments

8. Applicant's arguments, see pages 3-7, filed 4/18/2005, with respect to the rejection(s) of claim(s) 8-10 and 31 under the statutory basis for the previous rejection have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of newly found prior art references.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1-5 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Falcon (newly cited, US 5,633,657).

10. As to claims 1, 3, 5, Falcon teaches a computer mouse comprising:

A mouse 14 (fig. 1) includes inherently a housing, a mouse pad or surface tracking, a mouse driver 12 (electronic circuitry, fig. 1), a computer system 10 (fig. 1), a mouse further includes inherently a plurality of finger depressible buttons 16 and 18 (fig. 1).

Two pressure-sensitive variable sensors are defined by switch SW1 represents the mouse's scroll button 16 (col. 7, lines 61-62), switch SW2 represents the mouse's scroll button 18 (col. 8, lines 25), Fig. 2 expressly shows variable resistor R1, decay segment, a negative-going ramp (see detail in col. 7, lines 63-67), Fig. 2 expressly shows variable resistor R2, attack segment, a positive-going ramp (see detail in col. 8, lines 9-11), scrolling rate related to velocity and force in classics physics, scrolling rate is made proportional to the a scrolling rate function generate means (SRFG) associated scroll buttons (SW1, SW2 associated 16, 18, fig. 2) including two different values of the attack and decay segments' slopes (see detail in col. 4, lines 41-62). Therefore, a person of ordinary skill in the physics to understand that the teaching of Falcon's reference provides and establishes the "substantial evidence" to produce and result the claimed limitation at least two states of two switches SW1, SW2 of two pressure-sensitive variable sensors through depression of an associated button.

Falcon expressly teaches "the flow represented in FIG. 4 is a state machine, in which state 0 is an idle state (i.e., no button is pressed and the scrolling rate is zero), state 1 is the attack cycle and sustain cycle (i.e., the scroll button is pressed and the scrolling-rate is either increasing or steady), and state 2 is the decay cycle (i.e., the scroll button is released and the scrolling-rate is decreasing)" (see col. 9, line 64 to col. 10, line 3). Therefore, a person of ordinary skill in the art to understand that the teaching of Falcon's reference provides and

establishes the "substantial evidence" to produce and result the claimed limitation said electronic circuitry reading said at least three readable states.

Falcon expressly teaches "In this way, the mouse driver arrangement of the present invention allows it to perform scrolling in any direction, from an arbitrary cursor position and providing a wide-range scrolling-rate control" (col. 13, lines 32-36). Therefore, a person of ordinary skill in the art to understand that the teaching of Falcon's reference provides and establishes the "substantial evidence" to produce and result the claimed limitation "a pointer controlled by said mouse is not required to be located on a scrolling elevator showing on a monitor (see detail in Figs. 8a, 8b, col. 13, lines 16-31).

11. As to claim 2, Falcon teaches two pressure-sensitive variable sensors are defined by switch SW1 represents the mouse's scroll button 16 (col. 7, lines 61-62), switch SW2 represents the mouse's scroll button 18 (col. 8, lines 25), Fig. 2 expressly shows variable resistor R1, decay segment, a negative-going ramp (see detail in col. 7, lines 63-67), Fig. 2 expressly shows variable resistor R2, attack segment, a positive-going ramp (see detail in col. 8, lines 9-11), scrolling rate related to velocity and force in classics physics, scrolling rate is made proportional to the a scrolling rate function generate means (SRFG) associated scroll buttons (SW1, SW2 associated 16, 18, fig. 2) including two different values of the attack and decay segments' slopes (see detail in col. 4, lines 41-62). Therefore, a person of ordinary skill in the physics to understand that the teaching of Falcon's reference provides and establishes the "substantial evidence" to produce and result the claimed limitation at least two states of two switches

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SW1, SW2 of two pressure-sensitive variable sensors through depression of an associated button.

12. As to claim 4, Falcon teaches Fig. 2 expressly shows variable resistor R1, decay segment, a negative-going ramp (see detail in col. 7, lines 63-67), Fig. 2 expressly shows variable resistor R2, attack segment, a positive-going ramp (see detail in col. 8, lines 9-11), scrolling rate related to velocity and force in classics physics, scrolling rate is made proportional to the a scrolling rate function generate means (SRFG) associated scroll buttons (SW1, SW2 associated 16, 18, fig. 2) including two different values of the attack and decay segments' slopes (see detail in col. 4, lines 41-62).

Claim Rejections - 35 USC § 103

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Falcon in view of Furukawa (IDS cited, JP 5-87760).

15. As to claim 6, Falcon teaches all the subject matter claimed except for the use of buttons 16, 18 instead of the first and second sensors include elastomeric dome-caps including the pressure sensitive variable conductance material carried by and within said dome-caps.

However, buttons 16, 18 and a moving part 30 includes a rubber contact 19 and a conductive portion 33 whose resistance varies with pressure is attached to the bottom

end surface of the moving contract 32 by integral molding (see page 6, paragraph [0009]) have recognized in the art as equivalents as evidenced by Furukawa. Furukawa teaches that the benefit an operator is enable to freely control, the operation of a character of a video game, when performing a switching operation (see abstract). Therefore, it would have been obvious to one of ordinary skill in the art to replace the buttons in Falcon with the cross keys 12 (fig. 2) to achieve the benefit an operator is enable to freely control, the operation of a character of a video game, when performing a switching operation as taught by Furukawa (see abstract).

Moreover, where the claimed differences involve substitution of interchangeable equivalents and the reason for the selection of one equivalent for another was not to solve an existent problem such substitution has been judicially determined to have been obvious. See In re Ruff, 118 USPQ 343 (CCPA 1958).

16. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Falcon in view of Ho et al (newly cited, US 5,883,619).

17. As to claim 7, Falcon teaches a computer mouse comprising:

A mouse 14 (fig. 1) includes inherently a housing, a mouse pad or surface tracking, a mouse driver 12 (electronic circuitry, fig. 1), a computer system 10 (fig. 1), a mouse further includes inherently a plurality of finger depressible buttons 16 and 18 (fig. 1).

Two pressure-sensitive variable sensors are defined by switch SW1 represents the mouse's scroll button 16 (col. 7, lines 61-62), switch SW2 represents the mouse's scroll button 18 (col. 8, lines 25), Fig. 2 expressly shows

variable resistor R1, decay segment, a negative-going ramp (see detail in col. 7, lines 63-67), Fig. 2 expressly shows variable resistor R2, attack segment, a positive-going ramp (see detail in col. 8, lines 9-11), scrolling rate related to velocity and force in classics physics, scrolling rate is made proportional to the a scrolling rate function generate means (SRFG) associated scroll buttons (SW1, SW2 associated 16, 18, fig. 2) including two different values of the attack and decay segments' slopes (see detail in col. 4, lines 41-62). Therefore, a person of ordinary skill in the physics to understand that the teaching of Falcon's reference provides and establishes the "substantial evidence" to produce and result the claimed limitation at least two states of two switches SW1, SW2 of two pressure-sensitive variable sensors through depression of an associated button.

Falcon expressly teaches "the flow represented in FIG. 4 is a state machine, in which state 0 is an idle state (i.e., no button is pressed and the scrolling rate is zero), state 1 is the attack cycle and sustain cycle (i.e., the scroll button is pressed and the scrolling-rate is either increasing or steady), and state 2 is the decay cycle (i.e., the scroll button is released and the scrolling-rate is decreasing)" (see col. 9, line 64 to col. 10, line 3). Therefore, a person of ordinary skill in the art to understand that the teaching of Falcon's reference provides and establishes the "substantial evidence" to produce and result the claimed limitation said electronic circuitry reading said at least three readable states.

Falcon expressly teaches "In this way, the mouse driver arrangement of the present invention allows it to perform scrolling in any direction, from an

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arbitrary cursor position and providing a wide-range scrolling-rate control" (col. 13, lines 32-36). Therefore, a person of ordinary skill in the art to understand that the teaching of Falcon's reference provides and establishes the "substantial evidence" to produce and result the claimed limitation "a pointer controlled by said mouse is not required to be located on a scrolling elevator showing on a monitor (see detail in Figs. 8a, 8b, col. 13, lines 16-31).

Falcon teaches all the subject matter claimed except for the use of buttons 16, 18 instead of concavo-convex resilient disk.

However, buttons 16, 18 and a view control button 24 (concavo-convex resilient disk) in view of Fig. 4 have recognized in the art as equivalents as evidenced by Ho et al. Ho et al teaches that the benefit two dimensional view scrolling when scrolling a view of image displayed over the monitor (see col. 2, lines 16-18). Therefore, it would have been obvious to one of ordinary skill in the art to replace the buttons in Falcon with the view control button 24 (fig. 4) to achieve the benefit two dimensional view scrolling when scrolling a view of image displayed over the monitor as taught by Ho et al (see col. 2, lines 16-18).

Moreover, where the claimed differences involve substitution of interchangeable equivalents and the reason for the selection of one equivalent for another was not to solve an existent problem such substitution has been judicially determined to have been obvious. See In re Ruff, 118 USPQ 343 (CCPA 1958).

Claim Rejections - 35 USC § 102

18. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

19. Claims 8 and 12-31 are rejected under 35 U.S.C. 102(e) as being anticipated by Hinckley et al (newly cited, US 6,396,477).

20. As to claim 8, Hinckley et al teaches a computer mouse associated with a method comprising:

Depressing key's state, and depressing button's state (col. 6, line 20), by the user (col. 7, line 57-58),

In particular, the mice of Figs. 10B and 13D allow for scrolling using a series of touch sensor strips on the left button and on the left side of the mouse, respectively (col. 16, lines 53-55),

input devices of the present invention also allow for scrolling through pages of documents on a line-by-line basis (col. 16, lines 51-53). In some embodiments, the speed at which the strips are stroked determines the scroll rate (col. 16, lines 59-61).

A touch sensor includes a conductive film that has a capacitance that changes when it is touched. This sensor also includes a capacitive measuring circuit that generates signal based on the change in capacitance of the conductive film. Those

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skilled in the art will recognize that other contact sensor technologies are available such as capacitive pressure sensors (col. 5, lines 31-40).

21. As to claim 31, Hinckley et al teaches a computer mouse comprising:

Fig. 4A expressly shows a housing of the mouse which shaped to be held inherently by a person hand (see detail in col. 7, lines 32-39), when mouse 170 is moved across the surface (col. 7, line 43), in display 400 of Figs. 26A, caret 406 which appears as an arrow (cursor, col. 14, lines 42-43).

Side areas 184 and 186 (two On/off switches, fig. 4A) indicated when these areas are being touched by the user which includes inherently at least two fingers (col. 8, lines 3-4).

A touch sensor includes a conductive film that has a capacitance that changes when it is touched. This sensor also includes a capacitive measuring circuit that generates signal based on the change in capacitance of the conductive film. Those skilled in the art will recognize that other contact sensor technologies are available such as capacitive pressure sensors (col. 5, lines 31-40).

In particular, the mice of Figs. 10B and 13D allow for scrolling using a series of touch sensor strips on the left button and on the left side of the mouse, respectively (col. 16, lines 53-55),

Input devices of the present invention also allow for scrolling through pages of documents on a line-by-line basis (col. 16, lines 51-53). In some embodiments, the speed at which the strips are stroked determines the scroll rate (col. 16, lines 59-61).

22. As to claims 12, 18, 20, 22, 24, 29, Hinckley teaches a mouse comprising:

Fig. 4A expressly shows a housing of the mouse which shaped to be held inherently by a person hand (see detail in col. 7, lines 32-39), when mouse 170 is moved across the surface (col. 7, line 43), in display 400 of Figs. 26A, caret 406 which appears as an arrow (cursor, col. 14, lines 42-43).

multiple touch areas on an input device can be used to page backwards and forwards through web pages provided by an Internet browser. Examples of input devices having multiple touch sensitive areas useful in paging are the mice of FIGS. 10C, 10D, 12A, 12B, 13A, 13B, and 13C. In FIG. 10C, touching region 624 and then region 626 initiates a page backward function and touching region 626 and then region 624 initiates a page forward function (col. 16, lines 1-8). It does not required inherently to be located a cursor (406) on the page backwards through web pages provided by an Internet browser (fig. 30).

23. As to claims 13, 14, 25, Hinckley teaches in fig. 30 display 460 shows an Internet browser window 462 that depicts a current page 464 (col. 16, lines 40-42).

24. As to claims 15, 26, 30, Hinckley teaches multiple touch areas on an input device can be used to page backwards and forwards through web pages provided by an Internet browser (col. 1, lines 1-4).

25. As to claims 16, 17, 19, 21, 23, 27, 28, Hinckley teaches multiple touch areas on an input device can be used to page backwards and forwards through web pages provided by an Internet browser (col. 1, lines 1-4). It does not required inherently to be located a cursor (406) on the page backwards through web pages provided by an Internet browser (fig. 30).

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26. Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hinckley et al in view of Scholder et al (newly cited, US 5,805,144).

27. As to claims 9 and 10, Hinckley et al teaches all of the claimed limitations of claim 8, except for increasing and decreasing pressure applied to said analog control button.

However, Scholder et al teaches the degree (increase and decrease) of pressure that the user is placing on the touch pad at the contact point to determine pressure is analogous to an accelerator... vary (increase and decrease) pressure at the contact point (col. 6, lines 27-37).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to provide each Hinckley et al's button (184, 186, fig. 4A) including degree/vary (increase and decrease) of pressure that the user is placing on the touch pad at the contact point to determine pressure is analogous to an accelerator, in view of the teaching in the Scholder's reference, because this would improve the mouse pointing device to transmit smooth, analog-type data to the PC as taught by Scholder et al (col. 1, lines 12-14).

28. (Original) Claims 12-30 are rejected under 35 U.S.C. 102(e) as being anticipated by Adan et al (US Patent Application Publication 2002/0054023).

29. As to claims 12-15, 18, 20, 22, 23, 24-26, 29 and 30 (original), Adan et al expressly teaches a computer mouse 101 (Fig. 2A) associated with a method, the computer mouse comprising:

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a housing (102, 103), a trackball 119 (Fig. 2B), a rocker button 200 (see figure 2A, 2B, page 2, paragraph [0028, 0029]), communicating a first command signal to software, a display screen 560 (Fig. 6A), a window 562 (Fig. 6A), Internet Explorer®, (see page 6, paragraph [0081]), said first command signal activating display of information of a previous page 570 (Fig. 6B), said activating occurring without a requirement of a cursor having to be located on a back button 566 (Fig. 6A) on a display 560 (see detail in figures 6A, 6B, page 6, paragraph [0083], [0085] of 2002/0054023).

30. As to claims 16, 17, 19, 21, 27 and 28 (original), Adan et al expressly teaches said second command signal activating display of information of a forward page 576 (Fig. 6A), said activating occurring without a requirement of a cursor having to be located on a back button 566 (Fig. 6A) on a display 560 (see detail in figures 6A, 6C, page 7, paragraph [0083], [0087]).

Response to Arguments

31. Applicant's arguments filed 04/18/2005 have been fully considered but they are not persuasive.

32. Applicant's arguments with respect to claims 1-31 have been considered but are moot in view of the new ground(s) of rejection.

33. In response to applicant's argument of claims 12-30 at page 7. This argument is not persuasive because, as mentioned earlier in Final office action mailed 10/20/2004, and Interview summary filed 12/16/2004, continuation of parent application No. 09/153,146 associated with the Pub. No. US 2002/0054023. Examiner replies Pub. No. US 2002/0054023 in the current Office Action because Pub. No. US 2002/0054023 filed

under 37 CFR 1.53 (b). Thus, the status of nonprovisional parent application 09/153,146 (whether patented or abandoned) should also be included. If a parent application 09/153,146 has become abandoned, the expression "now abandoned" should follow the filing date 09/14/1998 of the parent application 09/153,146 (see front page at (63) of Pub. No. US 2002/0054023).

Therefore, the parent applicant 09/153,146 reference associated with the current applicant 10/004,663 reference is deemed to be entitled to the priority date of 09/14/1998 and is properly applicable as prior art. Therefore, the prior art rejection is hereby repeated 102(e) above.

34. Applicant refers to an affidavit or declaration filed in the parent application. Affidavits or declarations, such as those submitted under 37 CFR 1.131 and 37 CFR 1.132, filed during the prosecution of the parent application do not automatically become a part of this application. Where it is desired to rely on an earlier filed affidavit or declaration, the applicant should make the remarks of record in the later application and include a copy of the original affidavit or declaration filed in the parent application.

For these reasons, the rejections based on Falcon, Furukawa, Hinckley et al and Adan et al have been maintained.

Conclusion

35. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin M. Nguyen whose telephone number is 571-272-7697. The examiner can normally be reached on MON-THU from 8:00-6:00 pm.


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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick N. Edouard can be reached on 571-272-7603. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the Patent Application Information Retrieval system, see <http://portal.uspto.gov/external/portal/pair>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kevin M. Nguyen
Patent Examiner
Art Unit 2674

KMN
May 27, 2005



XIAO WU
PRIMARY EXAMINER